

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 25, 2016**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Heritage Town Square, 114 So. Mill Street, Virgin, Utah**

Present:

Council Members: Mayor, Bruce Densley  
Jay Lee  
Dan Snyder  
Matt Spendlove  
Jean Krause via Skype

Others: Monica Bowcutt, Town Clerk  
Darcey Spendlove  
Gene Sturzenegger  
Rod Mills  
Bonnie Timmerman  
Rosemary Marchi  
Jeff Morby  
Linda Collet  
Heath Snow-Town Attorney  
Cindy Escude  
Sean Amodt  
Candus Tibbits-Town Accountant

**A. WORK MEETING/Non-Action Items.**

The Council agreed that Virgin did not need to contribute to Washington City's Pioneer Day celebration.

**a. Discussion of Dalton Wash Property.**

Mayor Densley asked the Council to come up with ideas and comments on selling, leasing or keeping the Coal Pits property.

**b. Discussion of Welcome to Virgin sign.**

Mayor Densley had a few sketches of a possible 'Welcome to Virgin' sign. He suggested using limestone or sandstone and etch the wording. He reported he was still in discussion with UDOT about where to place the sign. Two possible locations were near the diversion dam road or by Desert Gardens. The Mayor asked for citizen input.

**c. Follow up on Heritage Park (Old Church) promotions. P&Z.**

Carolyn Mastler (who had volunteered to help) was not present to discuss finding venues for advertising the rental of town square. No comments were made.

**d. Discussion and possible adoption of Rules of Procedure and Order.**

There was no discussion on 'rules of procedures and order'.

**e. Discussion of BMX acreage.**

Mayor Densley explained that the town was still waiting for the BLM to grant the patent on

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the acreage by the BMX track. The preliminary plan was to have ball fields, a fish pond, camping, trails, and rodeo grounds. the Mayor asked for citizen input. It was also suggested to use the recreation committee who had been working on the project for several years.

#### **f. Discussion of Land Use Training-Saturday, June 11, 2016 9 am-12 pm in St. George.**

Mayor Densley asked the Council to let the Town Clerk know if they would be attending the Land Use Training on June 11.

#### **g. Discussion of optional county sales tax.**

Mayor Densley explained that the County Commission had not put the 1/4 of a cent county sales tax on the ballot. However, if the issue was going to be included in the County's budget it would have to be decided by mid June. The tax increase would be used for transportation. Dan Snyder, Bruce Densley, and Jean Krause all agreed that the increase should be on the ballot. Matt Spendlove and Jay Lee stated no, it should not be included. It was also made clear that the money would also be used for trails, etc.

#### **h. Discussion of Vacation Rental Resolution.**

The Council and Attorney Heath Snow discussed the Vacation Rental resolution which had been written by Sean Amodt. Attorney, Heath Snow, stated that the resolution would require changing the land use ordinance because it was changing uses within a zone.

Council Member Dan Snyder stated that Hurricane used an overlay and relied on percentages. He wondered if this would be a good way for Virgin to go. Mr. Snow replied that percentages were hard to track unless a specific permit was issued.

Council Member Jay Lee stated that St. George had zoned an entire area. He also suggested that an 8-10 person committee should be formed to research the topic.

Mayor Densley stated that he felt allowing hotels in residential areas would bring a disaster. He also stated that if the Council passed something the town would see a referendum. Council Member Jay Lee felt that if the town continued to work on the topic, it would stop the litigation.

Attorney Heath Snow, stated that the use was still prohibited, so the town should be enforcing the law. Mayor Densley stated that he did not think a code change could pass, but the town could run the resolution through the legislative process. Council Member Snyder felt that the topic should be brought up and if passed, should be regulated. He felt the town could be making money. Attorney Heath Snow stated that the permits could be tracked with the state

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tax commission. He then suggested that a permitted use made the use legal and there would be no way to track percentages. He also stated that Utah courts had drawn some distinction between hotels and short term rentals.

Mayor Densley finished the discussion up with saying that he felt the use destroyed the character of the town. He wanted short term rentals, but not in the residential zone. After this lengthy discussion, the Council agreed to send the resolution through the legislative process, beginning with the Planning and Zoning.

#### **B. REGULAR MEETING/Action Items:**

##### **1. Call to Order- Mayor, Bruce Densley**

Mayor Densley called the meeting to order at 7:05 pm. Mayor Bruce Densley gave an invocation. Council Member Jay Lee led the Pledge of Allegiance.

##### **2. Declaration of Conflict of Interest.**

Jay Lee declared that he lived on on a small lot in a residential zone, which was being discussed later in the meeting.

##### **3. Declaration of Ex-parte Communications.**

No communications were declared.

##### **4. Mayor's Comments:**

- \* Mayor Densley showed the honorary doctorate degree that he had received from the LaVerkin Elementary Read to Lead Program.
- \* The Mayor also stated that ground would be broken in July for the Marriott being built in Virgin.
- \* The Mayor stated that the new dumpster site had been put out to bid.
- \* He then reported that Chris Holm, Maintenance Supervisor, and the town engineer had met with Interstate Rock to fix a few problem spots on the Kolob Road.
- \* Mayor Densley reported that UDOT had agreed to pay to upgrade the highway near the 101. This would allow a bus stop there by the fall
- \* Mayor Densley then stated that cancer research was doubling in St. George. There was a new lab being built that would house \$10 million worth of equipment.

##### **5. Consent Agenda: Items 6 & 7:**

***Matt Spendlove moved to approve the April 27 Draft Minutes and table the April Invoices and Checks. Jay Lee seconded the motion. No roll call vote was taken. The motion passed unanimously.***

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#### **6. Review with possible approval of April 27, 2016 DRAFT minutes**

Council Member Jean Krause made a correction on page 4.

#### **7. Review with possible approval of April Invoices and Checks.**

No discussion was held.

#### **Open Forum: Limit 2 minutes per speaker.**

\* Sean Amodt volunteered to attend the BLM meeting with the Mayor because he had maps and the patent letter from years ago. He then stated that the recreation committee would head up the 4th of July celebration.

\* Cindy Escude' stated in 2014-2015 many months had been spent on short term leasing and the town had decided not to do it. This was followed by significant litigation, which was not even paid for yet. She stated that it had been a major decision for all. She felt it was a mistake to bring it back up again in such a short time. She was concerned about opening the discussion up again because it was such a sensitive issue. She asked the Council to really think about the long term future before making such a decision. Ms. Escude suggested the resolution be updated.

\* Rosemary Marchi stated that she was a property owner who had decided to use her home as a short term rental in 2012. She stated that she had never caused any trouble, paid many dollars in room tax to the town. She felt that short term rentals were very different than hotels (specifically no more than 2 occupants per bedroom) and she thought of herself as an ambassador of the town.

#### **8. Motion to Close Public Meeting and Open Public Hearing to receive public input on:**

##### **C. PUBLIC HEARING:**

- a. Amending the 2015/2016 Fiscal Year Budget.**
- b. Adopting the Proposed 2016/2017 Fiscal Year Budget.**
- c. Vacating Property adjacent to Camino del Rio.**

***Dan Snyder moved to close the public meeting and open the public hearing.***

Jay Lee suggested that the public hearing be continued to a later time in order to allow more time to review.

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***Matt Spendlove gave the second. No roll call vote was taken. The motion passed unanimously.***

\* Sean Amodt stated that the police department payments had increased significantly.

Mayor Densley replied that the options were to go back to the sheriffs office, which the officers were far, far, away, or to use an off duty officer, which were not always available when needed. He also stated that for the last quarter Virgin had more than 600 incidents that police officers were involved in.

\* Robin Clark asked if the incident report was available at the office. Mayor Densley replied yes, the report was available.

\* Cindy Escude asked how often the Mayor received a police report. The Mayor Densley stated he saw a report weekly. He also stated that the town received \$3,000 a quarter from the police department.

#### **9. Motion to Close Public Hearing and Open Public Meeting.**

***Dan Snyder moved to close the public hearing and open the public meeting. Matt Spendlove seconded the motion. No roll call vote was taken. The voting was unanimous.***

#### ***D. RE-OPEN PUBLIC MEETING:***

#### **10. Discussion with possible approval of Amending the 2015/2016 Fiscal Year Budget Resolution #R2016-B**

Mayor Densley reported that the budget came out \$2,200 short in the General Fund. Jay Lee suggested that a short review of amendments be included in the future.

***Dan Snyder moved to approve the amended fiscal year budget. #R2016-B. Jean Krause gave the second. Roll Call vote: Matt Spendlove-Aye,***

Candus Tibbits, Town Accountant, stated that the town had two options. They either did not amend the budget and get findings for two items (over budget and budget deficit), or they amend the budget and only receive one write up for being over budget.

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***Dan Snyder-Aye, Jean Krause-Aye, Jay Lee-Aye and Mayor Bruce Densley-Aye. The motion passed unanimously.***

**11. Discussion with possible approval of Adopting the Proposed 2016/2017 Fiscal Year Budget Resolution #R2016-C**

Mayor Densley stated that the budget was very conservative and would probably have a surplus because of the new motel.

Jay Lee stated that the police department budget was going up by \$15,000. He also stated that David Church had said that most town ordinances was Class C Misdemeanors, so staff could write the ticket. Heath Snow stated that a lot of the town violations were Class B Misdemeanors, not Class C, which could enforced by the Zoning Administrator, although a police officer had more of a presence.

Council Member Jay Lee also suggested that with the town paying \$20,000 in attorney fees, perhaps the attorney was not needed at the Planning and Zoning meetings. It was discussed that the attorney fees might be just be passed through to property owners or applicants. Council Member Jean Krause stated that she felt comfortable with the amount budgeted for attorneys fees.

***Jean Krause moved to approve the 2016/2017 budget. Jay Lee gave the second. Roll call vote: Matt Spendlove-Aye, Jay Lee-Aye, Dan Snyder-Aye, Jean Krause-Aye, and Mayor Bruce Densley-Aye. The motion passed unanimously.***

**12. Discussion with possible approval of Vacating Property adjacent to Camino del Rio.**

Heath Snow explained that public notice must be given and public hearing must be held before it was signed off.

***Dan Snyder moved to approve vacating the property adjacent to Camino del Ro. Matt Spendlove gave the second. No roll call vote was taken. The motion passed unanimously.***

**13. Discussion and possible adoption of Rules of Procedure and Order.**

The Council discussed Roberts Rules of Procedure and how complicated they really were. Council Member Dan Snyder and Mayor Densley liked the longer (Business Casual) version. The differences in each version were reviewed. Council Member Jay Lee stated he liked the simple and shorter version.

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***Jean Krause moved to table item number 13. Dan Snyder gave the second. No roll call vote was taken. The motion passed unanimously.***

**14. Discussion with possible adoption of Water Study and Waste Water Study-Ensign-Rod Mills.**

Rod Mills was present to discuss the Water Study and Waste Water Study. He stated that both studies had been finalized and published, they just needed to be made official by adoption.

***Jean Krause moved to adopt the Water Study 2016 and the Waste Water Study dated 8-20-2015 done by Ensign Engineering. Matt Spendlove gave the second. No roll call vote was taken. The voting was unanimous.***

**15. Discussion of "Welcome to Virgin" entry sign.**

The Virgin Town welcome sign was discussed in the work meeting and was not discussed further during the regular meeting.

**16. Recommendation by P&Z to TC to approve Application for Sub-Division (Leaming Cove) at approximately 999 W. 150 S. Virgin, UT.**

***Matt Spendlove moved to approve the application for the subdivision at Leaming Cove. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.***

**17. Recommendation by P&Z to TC to approve amending Section 22.8.3 of the Virgin Uniform Land Use Ordinance, entitle "Maximum building Size, " is hereby amended to read as follows:**

**22.8.3 MAXIMUM BUILDING SIZE.**

In no case shall any one building exceed "**a footprint of**" 20,000 square feet. The Town may consider expansion of a building size up to a maximum "**footprint**" of 45,000 square feet, subject to conditions set forth by separate development agreement, subject to design constraints, to be recorded against the property.

Attorney, Heath Snow, stated that the amendment was to clarify the Highway Resort Zone building footprint. The question had been asked was the ordinance referring to perimeter or livable square footage. Mr. Snow read the amended language as it would read in VULU.

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***Jean Krause moved to approve Ordinance #2016-3 amending Chapter 22, Section 8.3 of VULU. Matt Spendlove gave the second. Roll call vote: Matt Spendlove-Aye, Jay Lee-Aye, Dan Snyder-Aye, Jean Krause-Aye, and Mayor Bruce Densley-Aye. The motion passed unanimously.***

**18. Confirm approval of Ferber Resorts Development Agreement.**

Town attorney, Heath Snow, stated that the conditions of the conditional use permit had been added to the Ferber Resorts Development Agreement, which would protect the town in the case of the property being sold. The Council reviewed the agreement and the conditions. Council Member Krause reported that she had just spoken by phone to Mr. Ferber. His changes and concerns were discussed and noted. Grammatical changes were also made to the document.

***Jean Krause moved to approve the development agreement for the Stu Ferber hotel with the changes discussed and authorize Mayor Bruce Densley to sign the development agreement. Dan Snyder gave the second. No call vote was taken. The motion passed unanimously.***

**19. Recommendation by P & Z to TC to approve Non conforming Legal Lots of Record. Ordinance # 2016-4**

The Council discussed the recommendations by P & Z for non conforming legal lots of record. These lots became substandard because they were smaller than one acre when the new one acre ordinance was passed. It was decided that staff (as opposed to the P&Z) could reduce the set backs based on percentages, but the set backs could not get any lower than 10 feet.

Sean Amodt asked if a variance could still be applied for, to go below 10 feet. Attorney Snow, stated yes.

***Dan Snyder moved to approve Ordinance #2016-4, with the changes made by the attorney. Matthew Spendlove gave the second.***

Council Member Jay Lee asked about non conforming structures that were being remodeled or expanded. Council Member Krause stated she did not want to pass a law that was in conflict with another law. After discussion, it was the consensus that these structures could be altered under certain conditions on a non conforming lot.

***Roll call vote: Matt Spendlove-Aye, Jay Lee-Abstain, Dan Snyder-Aye, Jean Krause-No, and Mayor Bruce Densley-Aye. The motion passed on a split vote.***



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**20. Discussion of VULU Lighting Ordinance #2016-2**

The Council discussed the Lighting Ordinance, which was in ordinance form. The Mayor asked that the Council come prepared to vote at the next meeting.

***Jay Lee moved to table item number 20. Matt Spendlove seconded the motion. No roll vote. Jean Krause voted no. The motion passed on a split vote.***

**Commissioner Comments:**

\* Jay Lee stated that Kelsey Low had been crowned the town princess. He also stated that someone had repeatedly taken the no trespassing sign from the BMX track. Also, people continued to break in to the track during closed hours. He reminded citizens that the track was open on Wednesday night for practice and helmets were required.

**E. ADJOURN PUBLIC MEETING:**

**Approve motion to adjourn Public Meeting.**

***Mayor Densley adjourned the meeting.***

The Meeting adjourned at 8:58 pm.

\_\_\_\_\_  
Monica Bowcutt  
Town Clerk

Approved:\_\_\_\_\_